

Gray Manning Ltd (“Gray Manning”) provides marketing consultancy and related services to business clients. Gray Manning has reasonable skill, knowledge, and experience in that field. These Terms and Conditions shall form the basis of contracts for the provision of services by Gray Manning to its clients.

Gray Manning Ltd is a private limited company, registered in England and Wales, under company number 13868488 and whose registered office is at 50 Hoyland Road, Hoyland, Barnsley, England, S74 0PB.

The Contract shall comprise of the Statement of Work (and any document referred to in them or incorporated by reference in these Terms and Conditions or expressly) and incorporates these Terms and Conditions. Where there is a conflict of interpretation between any provision of these Terms and Conditions and a Statement of Work, the provisions of the Statement of Work shall take priority.

1. Definitions and Interpretation

1.1 In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:

“Business Day”	means, any day (other than Saturday or Sunday) on which ordinary banks are open for their full range of normal business in London;
“Business Hours”	means 9.00am to 5.00pm on a Business Day;
“Change Control Process”	means the process for managing changes to a Statement of Work as set out in Clause 7;
“Client”	means the party procuring Services from Gray Manning under the Contract;
“Client Equipment”	means any and all equipment including computer hardware, systems, emailing systems provided or otherwise made accessible by the Client to Gray Manning in relation to the provision of the Services (whether directly or indirectly);
“Client Materials”	means any and all information, documents, and other materials provided by the Client to Gray Manning in relation to the provision of the Services;
“Client Approval”	means approval in writing of Gray Manning’s work and/or expenditure by a person authorised by the Client or oral approval confirmed by either party in writing (including an email) promptly after oral approval;
“Commissioned Media”	means all media (advertising space or other media resources) commissioned by Gray Manning on behalf of the Client from third parties and subject to Third Party Terms;

“Commissioned Media Fees”	means the fees relating to the Commissioned Media;
“Confidential Information”	means, in relation to either Party, information which is disclosed to that Party by the other Party pursuant to or in connection with the Contract (whether orally or in writing or any other medium, and whether or not the information is expressly stated to be confidential or marked as such);
“Contract”	means the Statement of Work agreed by Gray Manning and the Client for the provision of Services in accordance with and on the basis of these Terms and Conditions;
“Data Protection Legislation”	means all applicable legislation in force from time to time in the United Kingdom applicable to data protection and privacy including, but not limited to, the UK GDPR (as defined in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018; the Data Protection Act 2018 (and regulations made thereunder); and the Privacy and Electronic Communications Regulations 2003 as amended;
“Fees”	means any and all sums due under the Contract from the Client to Gray Manning in consideration of the Services, as set out in Clause 5 (Fees, Payment, and Records) but excludes Commissioned Media Fees;
“Force Majeure Event”	means, in relation to either Party, any circumstances beyond that Party’s reasonable control including, but not limited to, any strike, lockout, or other form of industrial action; shortage of components or raw materials; lack of, interruption to, or failure of any utility service, or lack of available facilities; non-performance by suppliers or sub-contractors; collapse of buildings, fire, explosion, accident, acts of God, storm, flood, drought, earthquake, epidemic, pandemic, or other natural disaster; terrorist attack, civil commotion or riots, war, civil war, threat of preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off diplomatic relations; nuclear, chemical, or biological contamination, or sonic boom; or any law or action taken by a government or public authority including, but not limited to, imposing an export or import restriction, quota, or prohibition , or failing to grant a necessary licence or consent, or any similar or dissimilar circumstances.
“Gray Manning Materials”	means all material created for or on behalf of Gray Manning in connection with the Services (excluding Commissioned Media);
“Initial Term”	has the meaning given in Clause 13.1;

“Intellectual Property Rights”	means patents, rights to inventions, copyright and related rights, moral rights, trade marks, service marks, business names, domain names, rights in get-up and trade dress, goodwill and the right to passing off actions, design rights, database rights, rights subsisting in software, rights to use confidential information and the right to protect the same, and any and all other intellectual property rights, whether registered or unregistered, including applications and the right to apply for (and be granted) renewals or extensions of, and rights to claim priority from, any such rights and any and all equivalent rights or other forms of protection subsisting now or in the future anywhere in the world;
“Services”	means the services to be provided by Gray Manning to the Client in accordance with the Contract;
“Services Start Date”	has the meaning given in Clause 3.1;
“Statement of Work”	a form in agreed format setting out the material details of the Services; and
“Third Party Terms”	has the meaning given in Clause 4.7.

- 1.2 Any reference to “writing”, and any similar expression, includes a reference to any communication sent by email.
- 1.3 Unless expressly stated otherwise, legislation or a provision thereof is a reference to that legislation or provision as amended or re-enacted from time to time.
- 1.4 Unless expressly stated otherwise, legislation or a provision thereof, shall include all subordinate legislation made from time to time under that legislation or provision.
- 1.5 A reference to “these Terms and Conditions” is a reference to these Terms and Conditions as amended or supplemented at the relevant time.
- 1.6 A reference to “the Contract” is a reference to the contract between the Parties as defined above in Clause 1.1 and further set out below in Clause 2 (Basis of Contract).
- 1.7 A reference to a "Party" or the "Parties" refer to the parties to the Contract.
- 1.8 A reference to any other agreement or document is a reference to that agreement or document as amended or supplemented at the relevant time.
- 1.9 Any obligation on either Party not to do a particular thing includes an obligation to not allow that thing to be done.
- 1.10 The headings used in these Terms and Conditions are for convenience only and shall have no effect upon the interpretation of the Contract.
- 1.11 Words communicating the singular number shall include the plural and vice versa.
- 1.12 References to any gender shall include any other gender.
- 1.13 References to persons shall include natural persons, corporate, or unincorporated bodies (whether or not the same have a separate legal personality).
- 1.14 References to a company shall include companies, corporations, or other bodies corporate, however so and wherever incorporated or established.

2. Basis of Contract

- 2.1 A Contract shall come into force on the date of the last signature to a Statement of Work or, where agreed form of Statement of Work has been emailed to the Client this shall be the date of a responding email from the Client indicating acceptance of the Statement of Work.
- 2.2 These Terms and Conditions shall form the basis of the Contract to the exclusion of any other terms that the Client seeks to impose or incorporate into the Contract, or which are implied by trade custom, practice, or course of dealing.
- 2.3 No advertising, promotional literature, descriptive matter, drawings, samples, catalogues, brochures, or similar material issued or published by Gray Manning in any format or medium shall form part of the Contract or have any contractual force. Such material is provided by Gray Manning only for promotional purposes and for providing an approximate description of the services available from Gray Manning.

3. Provision of the Services and Service Provider's Obligations

- 3.1 With effect from the date stated in the Statement of Work as **Service Start Date**, Gray Manning shall, provide the Services to the Client.
- 3.2 Gray Manning shall provide the Services with such reasonable skill and care as can be expected from a competent marketing agency and as to make the Services as successful as possible subject to the Client meeting its obligations in Clause 4.
- 3.3 Gray Manning shall use reasonable endeavours to meet any performance dates set out in a Statement of Work. Such dates shall be estimates only, however, and time for performance shall not be of the essence in the provision of the Services.
- 3.4 Gray Manning shall act in accordance with all reasonable instructions issued by the Client provided that such instructions are compatible with the Statement of Work. Where such instructions are outside the scope of work set out in the Statement of Work the parties shall manage any changes required to the Statement of Work through the Change Control Process.
- 3.5 Gray Manning shall ensure that any and all of its personnel involved in the provision of the Services are suitably skilled, qualified, and experienced to perform the part(s) of the Services to which they are assigned. The Client acknowledges that Gray Manning Ltd may sub-contract all or some of the Services.
- 3.6 Gray Manning shall use any Client Materials provided by the Client from time to time only to the extent reasonably necessary for and only for the purposes of the provision of the Services. Where the Client Materials are of a physical nature Gray Manning shall hold Client Materials in safe custody, at its own risk, and shall maintain the same in good condition. Gray Manning shall return or dispose of Client Materials in its possession at the Client's option and on the Client's written instruction.
- 3.7 Gray Manning shall use any Client Equipment provided (or made available) by the Client from time to time only to the extent reasonably necessary for and only for the purposes of the provision of the Services. Gray Manning shall use all such Client Equipment with care and in accordance with best practice at all times. Gray Manning shall return Client Equipment in its possession on the Client's written instruction.

4. Client's Obligations and Client Approvals

- 4.1 The Client shall ensure that all information that it provides to Gray Manning shall be complete and accurate.
- 4.2 The Client shall provide:

- a) all co-operation that is reasonably required by Gray Manning to enable Gray Manning to provide the Services;
- b) any and all Client Materials that are agreed upon by the Parties in a Statement of Work or, if not known when the Statement of Work was agreed, as otherwise reasonably requested from time to time by Gray Manning together with any necessary written authorisation and instructions relating to the Client Materials, to enable Gray Manning to provide the Services; and
- c) (or make available) any and all Client Equipment (or access thereto) that is agreed upon by the Parties in a Statement of Work or, if not known when the Statement of Work was agreed, as otherwise reasonably requested from time to time by Gray Manning together with any necessary written authorisation and instructions relating to the Client Equipment, to enable Gray Manning to provide the Services;

4.3 In the event that Gray Manning requires Client Approval or any other communication from the Client in order to continue with the provision of the Services (or any part thereof) at any time, the Client shall provide the same in a reasonable and timely manner.

4.4 In the event that any licences or consents are required to enable Gray Manning to provide the Services, the Client shall obtain the same before the Service Start Date, and shall maintain the same to the extent required for the provision of the Services.

4.5 The Client shall ensure that any mailing list or customer database supplied to Gray Manning or used by the Client shall comply with the requirements of all legislation in force from time to time including, without limitation, the Data Protection Legislation

4.6 **Commissioned Media:** Where the Services include Commissioned Media the provisions below apply:

- a) Client Approval of media requirements including schedules and estimates will be authority to Gray Manning to make reservations with third parties for space, time and other facilities subject to the terms and conditions of the third party (Third Party Terms);
- b) the Client acknowledges that the liability as between Gray Manning and the Client shall correspond directly with the liability set out in the Third Party Terms and the Client shall have no right of recourse against Gray Manning in respect of the acts and omissions of the third party than as recoverable by Gray Manning from the third party and as set out in the Third Party Terms;
- c) the Contract shall be deemed to incorporate the Third Party Terms. Where links to or copies of the third party terms are not provided in / with the Statement of Work it is the Client's responsibility to request them from Gray Manning;
- d) the Client acknowledges that Gray Manning shall not procure Commissioned Media unless or until Commissioned Media Fees have been paid to Gray Manning in full in accordance with clause 5.6; and
- e) the Client acknowledges that Gray Manning may benefit from rebates and / or commission when procuring Commissioned Media and shall not be required to account to the Client in respect of these.

4.7 Any failure or delay in the provision of the Services by Gray Manning which results from the Client's failure or delay in complying with any of its obligations under the Contract or any other act or omission of the Client shall not be the responsibility or fault of Gray Manning.

5. Fees, Payment, and Records

The Statement of Work shall record the Fee structure.

Fixed Price Fees: where this applies:

5.1 The Fees shall be as set out in the Statement of Work.

5.2 Gray Manning shall invoice the Client at such intervals / stages as shown in the Statement of Work or in default, this shall be when the Services have been completed.

Time and Material Fees: where this applies:

5.3 The Fees shall be calculated on a time and materials basis as follows:

- a) the Fees shall be calculated in accordance with Gray Manning's daily rates as set out in the Statement of Work;
- b) Gray Manning's daily rates for each client are calculated on the basis of an eight-hour working day; and
- c) Gray Manning shall have the right to charge an overtime rate of up to 50% of its daily rate on a pro-rata basis for each part-day or for any overtime worked by personnel that it engages in the provision of the Services outside of the hours stated above in sub-Clause 5.4(b).
- d) Gray Manning shall invoice the Client for the Fees at the intervals specified, or on the achievement of the milestones indicated, in the Statement of Work. If no intervals are so specified, Gray Manning shall invoice the Client at the end of each month for Services performed during that month.

In all cases:

5.4 Gray Manning shall have the right to charge the Client for any reasonable expenses incurred by the personnel that it engages in the provision of the Services including, but not limited to, travel expenses, accommodation expenses, subsistence, and any other associated expenses, and for the cost of any services procured from third parties by Gray Manning necessary for the performance of the Services including Commissioned Media Fees, and for the cost of any materials required.

5.5 Subject to clause 5.7 all payments required to be made pursuant to the Contract in consideration of the Services shall be made within 28 days of invoice date (and invoice shall be emailed to the Client on the same day).

5.6 Payments for Commissioned Media Fees must be paid in full cleared funds before Gray Manning will commit to procurement of the Commissioned Media.

5.7 All sums payable by the Client under the Contract shall be exclusive of VAT. In the event that any taxable supply for VAT purposes is made under the Contract by Gray Manning to the Client, the Client shall, upon receipt of a valid VAT invoice from Gray Manning, pay to Gray Manning such additional sums in respect of VAT as are chargeable on the supply of the Services at the same time that payment is due for the provision of the Services.

5.8 Where the Contract includes services to be provided for a period longer than 12 months Gray Manning reserves the right to increase the Fees on or around each anniversary of the Service Start Date in line with the higher of (a) 3% or (b) the increase in the retail prices index during the same period. The Fee increase shall apply from the anniversary date or 30 days after written notification whichever is the earliest.

5.9 Without prejudice to Clause 13 (termination for breach (which includes late payment));

- a) any sums which remain unpaid by the due date for payment under the Contract

shall incur interest on a daily basis at 4% per annum from the due date for payment until payment is made in full of any such outstanding sums, whether before or after judgment; and

- b) Gray Manning may, on notice of not less than 24 hours, suspend the Services where the Client fails to make any payment within 5 Business Days of the due date.

5.10 All sums due under the Contract shall be paid in full without any set-off, withholding, deduction, or counterclaim except any withholding or deduction (if any) of tax that is required by law.

5.11 Commissioned Media Fees: the Client acknowledges that these are not refundable in any circumstances once Gray Manning has procured the Commissioned Media (save to the extent provided by the Third Party Terms).

6 Intellectual Property Rights

6.1 The Client (and, where applicable, its licensors) shall retain ownership of the Intellectual Property Rights subsisting in any and all Client Materials.

6.2 The Client shall grant to Gray Manning a non-exclusive, fully paid-up, royalty-free, sublicensable licence to use the Client Equipment and to use, copy, and modify the Client Materials for the term of the Contract only to the extent reasonably necessary for and only for the purposes of the provision of the Services.

6.3 Gray Manning (and, where applicable, its licensors) shall retain ownership of the Intellectual Property Rights subsisting in the Gray Manning Materials.

6.4 Upon payment of all Fees (including Commissioned Media Fees) Gray Manning shall grant to the Client a non-exclusive, fully paid-up, sublicensable licence to use and copy the Gray Manning Materials in its own business.

7 Change Control Process

7.1 Either party may propose changes to the scope of an agreed Statement of Works but no proposed changes shall come into effect until a relevant **Change Order** has been signed by both parties. A Change Order shall be a document in any form provided that it sets out the proposed changes and the effect that those changes will have on including such changes as affecting:

- a) the Services;
- b) the Fees (other than as provided in Clause 5.9);
- c) the Commissioned Media Fees;
- d) the timetable for the Services
- e) effective date of the change; and
- f) any of the other changes to material terms of the relevant Statement of Work.

7.2 If Gray Manning wishes to make a change it shall provide a draft Change Order to the Client.

7.3 If the Client wishes to make a change:

- a) it shall notify Gray Manning and provide as much detail as Gray Manning reasonably requires of the proposed changes, including the timing of the proposed change; and

- b) Gray Manning shall, as soon as reasonably practicable after receiving the information at clause 7.1, provide a draft Change Order to the Client.

7.4 If the parties:

- a) agree to a Change Order, they shall sign it and that Change Order shall amend the relevant Statement of Work; or
- b) are unable to agree a Change Order, the change shall not be taken further.

7.5 Gray Manning may charge for the time it spends on preparing and negotiating Change Orders which implement changes proposed by the Client pursuant to clause 7.3 on a time and materials basis at Gray Manning's then current daily rates for consultancy.

8 Confidentiality

8.1 Each Party undertakes that, except as provided by Clause 8.2 or as authorised in writing by the other Party (such authorisation not to be unreasonably withheld), it shall, at all times during the term of the Contract and for 12 months after its termination or expiry:

- a) keep confidential all Confidential Information;
- b) not disclose any Confidential Information to any other party;
- c) not use any Confidential Information for any purpose other than as contemplated by the Contract; and
- d) ensure that (as applicable) none of its employees, directors, officers, agents, or sub-contractors does any act which, if done by that Party, would be a breach of the provisions of this Clause 8.

8.2 Subject to Clause 8.3, either Party may disclose any Confidential Information to:

- a) any sub-contractors, substitutes, or suppliers;
- b) any governmental or other authority or regulatory body;
- c) any employee or officer of that Party or of any of the aforementioned persons, parties, or bodies.

8.3 Disclosure under Clause 8.2 may be made only to the extent that it is necessary for the purposes contemplated by the Contract, or as required by law. In each case, the disclosing Party must first inform the recipient that the Confidential Information is confidential. Unless the recipient is a body described in Clause 8.2(b) or is an authorised employee or officer of such a body, the Party disclosing the Confidential Information under Clause 8.2 must obtain and submit to the other Party a written undertaking from the recipient to keep the Confidential Information confidential and to use it only for the purposes for which the disclosure is made.

8.4 Either Party may use any Confidential for any purpose, or disclose it to any other party, where that Confidential Information is or becomes public knowledge through no fault of that Party.

8.5 When using or disclosing Confidential Information under Clause 8.4, the Party using or disclosing that Confidential Information must ensure that it does not use or disclose any part of that Confidential Information which is not public knowledge.

8.6 The provisions of this Clause 8 shall continue in force in accordance with their terms, notwithstanding the termination or expiry of the Contract for any reason.

9 Data Protection

Gray Manning shall only use the Client's personal data as set out in Gray Manning's privacy notice

and the latest version can be found at <https://www.graymanning.marketing/privacy>

10 Data Processing

- 10.1 In this Clause 10, the terms “personal data”, “processing”, “data subject”, “controller”, “processor”, and “personal data breach” shall have the meanings defined in Article 4 of the UK GDPR, and the terms “Data Processor” and “Data Controller” shall have the same meanings as “processor” and “controller” respectively. The term “domestic law” means the law of the United Kingdom or a part thereof.
- 10.2 The Parties shall both comply with all applicable data protection requirements set out in the Data Protection Legislation. This Clause 10 shall not relieve either Party of any obligations set out in the Data Protection Legislation and does not remove or replace any of those obligations.
- 10.3 For the purposes of the Data Protection Legislation and for this Clause 10, the Client shall be the “Data Controller”, and Gray Manning shall be the “Data Processor”.
- 10.4 The scope, nature, and purpose of the processing; the duration of the processing; the type(s) of personal data; and the category or categories of data subject shall be set out in Statement of Work.
- 10.5 The Data Controller shall (without prejudice to the generality of Clause 10.2) ensure that it has in place all necessary consents and notices required to enable the lawful transfer of personal data to the Data Processor as required for the Data Processor to provide the Services.
- 10.6 The Data Processor shall (without prejudice to the generality of Clause 10.2), with respect to any personal data processed by it in relation to its performance of any of its obligations under the Contract:
- a) process the personal data only on the written documented instructions (which shall include the purposes as required to provide the Services) of the Data Controller unless the Data Processor is otherwise required to process such personal data by domestic law. The Data Processor shall promptly notify the Data Controller before carrying out such processing unless it is prohibited from doing so by that law;
 - b) ensure that it has in place appropriate technical and organisational measures (as approved by the Data Controller) to protect the personal data from unauthorised or unlawful processing, accidental loss, damage, or destruction. Such measures shall be appropriate and proportionate to the potential harm resulting from such events and to the nature, scope, and context of the personal data and processing involved;
 - c) ensure that any and all persons with access to the personal data (whether for processing purposes or otherwise) are contractually obliged to keep that personal data confidential;
 - d) not transfer any personal data outside of the UK without the prior written consent of the Data Controller and only if the following conditions are satisfied:
 - I. the Data Controller and/or the Data Processor has/have provided appropriate safeguards for the transfer of personal data;
 - II. affected data subjects have enforceable rights and effective legal remedies;
 - III. the Data Processor complies with its obligations under the Data Protection Legislation, providing an adequate level of protection to any and all personal data so transferred; and

- IV. the Data Processor complies with all reasonable instructions given in advance by the Data Controller with respect to the processing of the personal data;

assist the Data Controller, at the Data Controller's cost, in responding to any and all requests from data subjects and in ensuring its compliance with the Data Protection Legislation with respect to impact assessments, security, breach notifications, and consultations with supervisory authorities or other applicable regulatory authorities (including, but not limited to, the Information Commissioner's Office);

notify the Data Controller without undue delay of any personal data breach of which it becomes aware; and

- g) on the Data Controller's written instruction, delete (or otherwise dispose of) or return all personal data and any and all copies thereof to the Data Controller on termination or expiry of the Contract unless it is required to retain any of the personal data by domestic law.

- 10.7 The Data Controller acknowledges that the Data Processor may sub-contract some or all of its obligations with respect to the processing of personal data under this Clause 10 to another processor and hereby confirms that the Data Processor may do so without the prior written consent of the Data Controller.

11 Liability

- 11.1 The Client shall be responsible for making its own arrangements for insurance to cover any losses not covered by or in excess that accepted by Gray Manning in this clause.

- 11.2 References in this Clause 11 to "liability" shall include every liability arising under or in relation to the Contract including, but not limited to, liability in contract, tort (including negligence), breach of statutory duty, misrepresentation, restitution, or otherwise.

- 11.3 Nothing in the Contract shall limit or exclude Gray Manning's liability under or in relation to the Contract for any form of liability which cannot be limited or excluded by law including, but not limited to:

- a) death or personal injury caused by negligence;
- b) fraud or fraudulent misrepresentation.

- 11.4 The Client agrees that Gray Manning is not responsible for the delivery of the Commissioned Media and that the provisions of Clause 4.7 apply.

- 11.5 Gray Manning will not be liable for any error in the Services or delay to Services or if it does not occur as planned or where Client Approval has been given.

- 11.6 Subject to Clause 11.3 the total liability of Gray Manning to the Client under or in relation to the Contract for any and all related or unrelated acts or omissions, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall be limited to the Fees paid by the Client in the prior 6 months in respect of the services causing liability.

- 11.7 Subject to Clause 11.3 the following categories of loss shall be wholly excluded by the Parties and neither Party shall be liable under or in relation to the Contract for any such losses suffered by the other, whether directly or indirectly, or whether immediate or consequential:

- a) loss of profits;
- b) loss of sales or business;
- c) loss of business opportunity;

- d) loss of agreements or contracts;
- e) loss of anticipated savings;
- f) loss or corruption of data or information;
- g) loss or corruption of software;
- h) loss of, or damage to, goodwill; or
- i) indirect or consequential loss.

11.8 Subject to the above provisions of this Clause 11, the Client's rights under the Contract shall be in addition to, and not exclusive of, any common law rights or remedies.

12 Force Majeure

12.1 Neither Party to this Agreement shall be liable for any failure or delay in performing their obligations where such failure or delay results from Force Majeure Event affecting that Party.

12.2 In the event that a Party to this Agreement cannot perform their obligations hereunder as a result of a Force Majeure Event for a continuous period of 3 months, the other Party may at its discretion terminate this Agreement by written notice at the end of that period. In the event of such termination, the Parties shall agree upon a fair and reasonable payment for all work completed up to the date of termination. Such payment shall take into account any prior contractual commitments entered into in reliance on the performance of this Agreement.

13 Termination

13.1 Where the Statement of Work includes an **Initial Term**, without prejudice to any other right or remedy available to it, either Party may terminate the Statement of Work by giving the other Party not less than 90 days written notice, to expire no earlier than the end of the Initial Term. This does not apply as a general right to terminate on 90 days notice.

13.2 Either party may terminate a Statement of Work forthwith by notice in writing to the other if the other party:

- a) is in material breach of any of the terms of this Agreement and, in the case of a breach capable of remedy, fails to remedy such breach within 30 days of receipt of written notice giving full particulars of the breach and of the steps required to remedy it; or
- b) (being a company) passes a resolution for winding up (otherwise than for the purposes of a solvent amalgamation or reconstruction) or a court makes an order to that effect; or
- c) (being a partnership or other unincorporated association) is dissolved or (being a natural person) dies; or
- d) becomes or is declared insolvent or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors; or
- e) has a liquidator, receiver, administrator, administrative receiver, manager, trustee or similar officer appointed over any of its assets; or
- f) ceases, or threatens to cease, to carry on business.

13.3 For the purposes of Clause 13.2(a), a breach shall be considered capable of remedy if the Party in breach can comply with the provision in question in all respects.

14 Effects of Termination

14.1 Upon the termination or expiry of the Contract for any reason:

- a) any sum owing by either Party to the other Party under the Contract shall become immediately due and payable;
- b) Gray Manning shall immediately return any and all Client Materials and Client Equipment in its possession. Gray Manning shall be fully and solely responsible for Client Materials and Client Equipment in its possession until they are returned to the Client and shall not use the same for any purpose which is not connected with the Contract. In the event that Gray Manning fails to return any Client Materials or Client Equipment within 20 Business Days of the termination or expiry of the Contract, the Client shall have the right to enter Gray Manning's premises to take possession of them;
- c) each Party shall (except to the extent referred to in Clause 8 (Confidentiality)) immediately cease to use, either directly or indirectly, any Confidential Information belonging to the other Party, and shall immediately return to the other Party any documents in its possession or control which contain or record any Confidential Information;
- d) termination or expiry shall not affect or prejudice any rights, remedies, obligations, or liabilities of the Parties that have accrued up to the date of termination or expiry including, but not limited to, the right to claim damages or any other remedy in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- e) any provision of the Contract which either expressly or by implication is intended to continue in force or come into force after or upon the termination or expiry of the Contract shall remain in full force and effect.

14.2 If, prior to notice of termination of the Contract, Gray Manning has at the request of the Client prepared detailed plans or proposals for future marketing in respect of which Gray Manning has not been remunerated, the Company shall be entitled to receive from the Client payment on the basis of fair compensation for work done.

14.3 If the Client wishes to use through another agency, a media plan drawn up by Gray Manning for the Client's future use, the Client shall not do so without Gray Manning's prior written consent and agreement being reached regarding appropriate remuneration for Gray Manning.

15 General Provisions

15.1 No failure or delay by either Party in exercising any of its rights under the Contract shall be deemed to be a waiver of that right, and no waiver by either Party of a breach of any provision of the Contract shall be deemed to be a waiver of any subsequent breach of the same or any other provision.

15.2 Each Party shall execute and do all such further deeds, documents and things as may be necessary to carry the provisions of the Contract into full force and effect.

15.3 Other than as set out in these Terms and Conditions, no variation of the Contract including, but not limited to, the introduction of any additional terms and conditions, shall be effective unless it is made in writing and signed by the Parties (or their authorised representatives).

15.4 In the event that one or more of the provisions of the Contract is found to be unlawful, invalid or otherwise unenforceable, that / those provision(s) shall be deemed severed from the remainder of the Contract. The remainder of the Contract shall be valid and enforceable.

15.5 The parties agree that any condition, warranty, representation or other term concerning the Services and/or the performance of the Services which might otherwise be implied into or incorporated in this Agreement, whether by statute, common law or otherwise, is excluded to the

maximum extent permitted by law

- 15.6 The Client agrees that it shall not, whether directly or indirectly, during or for a period of 12 months from the end of the Services solicit or entice away or attempt to solicit or entice away any employee of Gray Manning who has worked on the Services at any time during the last 12 months.
- 15.7 No part of the Contract shall be intended to confer rights on any third parties and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply to the Contract. The Contract shall continue and be binding on the transferee, successors and assigns of either Party as required.
- 15.8 Nothing in the Contract shall constitute or be deemed to constitute a partnership, joint venture, agency, or other fiduciary relationship between the Parties other than the contractual relationship expressly provided for in the Contract.
- 15.9 Subject to Clause 15.10, the Contract shall be personal to the Parties. Neither Party may assign, mortgage, charge (otherwise than by floating charge) or sub-licence or otherwise delegate any of its rights thereunder, or sub-contract or otherwise delegate any of its obligations thereunder without the written consent of the other Party, such consent not to be unreasonably withheld.
- 15.10 The Service Provider shall be entitled to perform any of the obligations undertaken by it through suitably qualified and skilled sub-contractors. Subject to provisions concerning Commissioned Media in these Terms and Conditions, any act or omission of such other member or sub-contractor shall, for the purposes of the Contract, be deemed to be an act or omission of the Party in question.
- 15.11 The Contract constitutes the entire agreement between the Parties with respect to its subject matter.
- 15.12 Each Party acknowledges that, in entering into the Contract, it shall not rely on any representation, warranty, assurance or other provision (made innocently or negligently) except as expressly provided in the Contract.

16 Notices

- 16.1 All notices under the Contract shall be in writing and deemed duly given if signed by, or on behalf of, a duly authorised officer of the Party giving the notice.
- 16.2 All notices under the Contract shall be addressed to the most recent postal address or email address given in the Statement of Work or as otherwise notified in writing by either Party to the other from time to time.
- 16.3 Notices shall be deemed to have been duly given:
 - a) when delivered, if delivered by courier or other messenger during the normal business hours of the recipient, on signature of a delivery receipt; or
 - b) when sent, if sent by email and a successful confirmation of receipt or read receipt is generated during Business Hours or, if sent outside Business Hours, when such business hours resume; or
 - c) at the delivery time recorded by the relevant delivery service, if mailed by first-class mail, postage prepaid or by any other next working day delivery service.

17 Law and Jurisdiction

- 17.1 The Contract (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of England and Wales.
- 17.2 Any dispute, controversy, proceedings or claim between the Parties relating to the Contract

(including any non-contractual matters and obligations arising therefrom or associated therewith) shall fall within the jurisdiction of the courts of England and Wales.